

Applicants elect, with traverse, Group I, Claims 1-23, drawn to a toner, for further prosecution.

In regard to Groups I and II, the Office has characterized the relationship between these two groups as product and process of use. Citing MPEP §806.05(h), the Office concludes that the product as claimed can be used "in flash fusing." However, the Office has not provided reasons and/or examples to support this conclusion. Further, the Office has failed to show that the proposed use of the claimed composition "in flash fusing" is materially different from the claimed use. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

In regard to Groups II and III, the Office has characterized the relationship between these two groups as process and apparatus for its practice. Citing MPEP §806.05(e), the Office suggests that the process as claimed can be practiced by hand or by a materially different apparatus such as "with other cartridges or apparatus and does not need a magnetic field in the fixing of the electrostatic toner". However, the Office has failed to explain how the claimed process could be carried out using the alleged "other cartridges or apparatus that does not need a magnetic field in the fixing of the electrostatic toner". Further, the Office has failed to show that the proposed process "with other cartridges or apparatus that does not need a magnetic field in the fixing of the electrostatic toner" is materially different from the claimed use. Accordingly, Applicants respectfully submit that the Restriction Requirement is

In addition, the Office has not provided any support for the Restriction Requirement between Groups I and III. Since no argument in support for this is provided by

the Office, there exists evidence and or reasoning to support the mere conclusion apparent in the Restriction Requirement. Accordingly, Applicants respectfully submit that the Restriction Requirement is unsustainable, and it should therefore be withdrawn.

Applicants further traverse the Restriction Requirement on the additional ground that a search of all the claims would not impose a serious burden on the Office. The MPEP in §803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

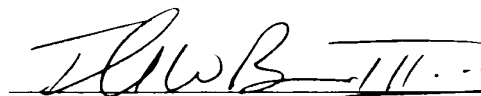
Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office and the Restriction Requirement. Applicants respectfully submit that the Restriction Requirement is unsustainable; and therefore, it should be withdrawn.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Election of Species Requirement. Withdrawal of the Election of Species Requirement is respectfully requested.

Applicants further submit that this application is in condition for examination on the merits and an early notification to that effect is earnestly solicited.

Respectfully submitted,

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